



Southwest Kansas
Groundwater Management District No. 3
2009 E. Spruce Street
Garden City, Kansas 67846
(620) 275-7147 phone (620) 275-1431 fax
www.gmd3.org

Proponent Testimony on SB337 to the Senate Committee on Natural Resources.
By Mark Rude, Executive Director
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Chairman Powell and members of the committee, thank you for the opportunity to provide this testimony as a proponent of SB337 with some questions and a recommendation.

SB 337 grants the authority to the chief engineer to collect increased fines into the agency water appropriation certification fund when water right owners, except domestic rights, fail to submit timely annual water use report documentation and information as required by the chief engineer. It also grants the chief engineer the authority to suspend private property rights indefinitely until such time as the chief engineer determines water use has been significantly documented with the division. With significant discretion and new authority requested for this one individual, what are the chief engineer's thoughts on how he will implement this bill? Several questions come to mind.

The first question relates to the new authority for the chief engineer to suspend private property rights for lack of timely receiving information from water users. Information from agency staff provided to the GMD3 board indicated the "no report" problem involves only about eight people state wide each year. If the issue is that small, then indefinite suspension may not cause a significant loss of state water use benefits as long as public and animal health, safety or welfare concerns do not become an issue under this new authority.

SB 337 appears to focus on the owner and his or her water use information, report or other documents due to the chief engineer. It does not appear to set a fine opportunity for each water right file number listed on a water use report card or other form prescribed by the chief engineer. One person can own multiple water rights. So, would this new fining cap be by owner or by water right file number? The bill is not clear whether the maximum fine limit is per owner or per water right file number, by card, on-line entry form or other requested information submittal. If there are 10 water right files on a form, each water right could be an additional \$1000 fine. SB337 says the civil penalty amount from the chief engineer will not exceed \$1000.

We recommend leeway in the language of SB337 to have no fine if it would cause a manifest injustice to collect a fine for a late report. Say, the husband irrigator passed during the report period and the widow is having difficulty producing the water use records onto the forms in time to meet the deadline. This has occurred, and there is no extension of time allowed for good cause in the current law. Changing the "shall" to "may" on Page 1, Line 17 would give the chief engineer the discretion to waive the civil penalty if he found evidence of good cause for the tardy filing of the water use report.

Thank you again for this opportunity to testify and I will stand for questions as needed.